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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,363	09/12/2003	Michael S. DeFranks	SMCY-P01-101	6758
28120 7590 09/19/2008 ROPES & GRAY LLP PATENT DOCKETING 39/41 ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624				
EXAMINER BONK, TERESA				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,363

Applicant(s)

DEFRANKS ET AL.

Examiner

TERESA BONK

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-82 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 17, 22, 23, 28, 33, 34, 51-53, 59, 64, 65, 70, 75, 76, 81 and 82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims **withdrawn** from consideration are 12-16, 18-21, 24-27, 29-32, 35-50, 54-58, 60-63, 66-69, 71-74 and 77.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims rejected under 35 U.S.C. 102(b) as being anticipated by Otzen et al. (US Patent 5,865,051). Claims 1-3, 5-11, 17, 22-23, 28, 33-34, 51-53, 59, 64-65, 70, 75-76, 81 and 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Otzen et al '051. Otzen discloses an apparatus for the manufacture of a coiled wire which containing all of the claimed elements including, a coil spring winder (device having pins 3.1 and 3.2) and a wire holder (A) which is rotatable along a direction orthogonal to the feed direction (through L1 and L2) and along the feed direction itself (through L3) so that torque acting about a cross section of the wire is reduced (Column 4, lines 24-29). Limitations of claim 2 are shown in figure 1, while the operation of the holder unit and the turning of the coil spring winder unit acting in synch is facilitated by sensing devices E1 and E2. A reel and its positioning as required by claims 10-11 and 52-53 is shown in figure 1. A motor for rotating the reel as require by claims 17, 28, 59 and 70 is read onto the controlled drive disclosed at col. 4, lines 8-9. A tension sensor as required by claims 22, 64 and 82 is shown as sensor E2 which controls the drive unit of bearing L1 and L2 depending on need as required by claims 23, 65, and 82 (Column 4, lines 28-32). A torque sensor as required by claims 33, 75 is shown as sensor E1 which controls the drive unit of bearing L3 (Column 4, lines 24-30) as required by claims 34 and 76.

With regards to the newly claimed limitations, Otzen et al. also discloses a wire holder supported by a coupling (L3) that allows the wire holder to rotate about a holding axis in response to a torque about a cross section of a wire (Column 4, lines 11-29).

Regarding the limitations of the wire comprising a plurality of strands (claim 1) and the various positioning (claims 5-7) and cross-sectional characteristics (8-9) of the wire, the claim is an apparatus type claim which is directed to a device for manufacturing coil spring wire and as such lacking any clear distinguishing features the above claimed wire limitations do not serve to patentably distinguish the claim as it considered that the apparatus of Otzen is capable of utilizing the claimed type wire.

Response to Arguments

Applicant's arguments filed May 30, 2007 have been fully considered but they are not persuasive.

With regards to Applicant's arguments on pages 13-15, that the Otzen reference does not disclose a wireholder having a multistranded wire, the Examiner maintains that the claimed invention is directed to an apparatus for manufacturing coil spring wire and therefore the particular product wire features do not serve to patentably distinguish the invention.

With regards to Applicant's arguments on page 15, that the Otzen reference does not disclose a coupling, the Examiner points out this newly claimed limitation is also disclosed in Otzen, as stated above, as element L3 on Column 4, lines 11-29.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Derris H Banks/
Supervisory Patent Examiner, Art Unit 3725

Teresa M. Bonk
Examiner
Art Unit 3725